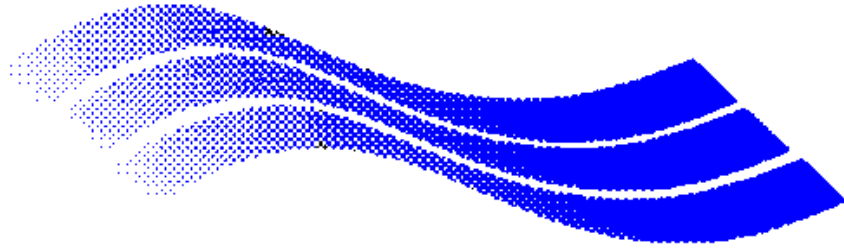


SACRAMENTO METROPOLITAN



**AIR QUALITY**  
MANAGEMENT DISTRICT

GUIDELINES FOR IMPLEMENTING  
AB 1390 (FIREBAUGH) REQUIREMENTS FOR THE  
CARL MOYER MEMORIAL AIR QUALITY INCENTIVE PROGRAM



JANUARY 23, 2003

## 1.0 CARL MOYER PROGRAM OVERVIEW

The Sacramento Metropolitan Air Quality Management District (SMAQMD) is responsible for protecting public health and the environment by achieving clean air in the Sacramento region. The SMAQMD is part of the Sacramento Federal Ozone Non-Attainment Area (SFNA), which consists of Sacramento & Yolo counties, Placer &



El Dorado counties up to the Sierra ridge line, and the southern and northeastern parts of Sutter and Solano counties respectively. The SFNA is designated as a Severe Ozone Non-Attainment area under federal standards and a Serious Ozone Non-Attainment area under state ambient air quality standards. Ground-level ozone directly impacts the community by increasing rates of asthma and respiratory disease, especially in children, by irritating the respiratory tract.<sup>1</sup> Ozone is formed in the atmosphere from a reaction between oxides of nitrogen (NO<sub>x</sub>), hydrocarbons, and sunlight.

One of the programs administered by the SMAQMD Mobile Source Division (MSD) to control ozone is the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer). The SMAQMD receives and distributes Carl Moyer funds directly from the California Air Resources Board (CARB) on behalf of the entire SFNA, except for the southern portion of Sutter County.

Since ozone is caused in part by NO<sub>x</sub> and up to 70% of total NO<sub>x</sub> emissions come from heavy-duty diesel engines, the Carl Moyer Program provides financial incentives to reduce NO<sub>x</sub> emissions from heavy-duty diesel engines operating in our area. Typical projects include purchasing new, low-emission transit buses, school buses, and repowering agricultural pumps, off-road construction and agricultural equipment, or heavy-duty on road diesel trucks with newer, lower-emission diesel engines.

The state legislature recently enacted AB 1390 (Firebaugh), which places certain restrictions on the distribution of Carl Moyer funds. The California Air Resources Board (CARB) is responsible for overseeing the implementation of AB1390, and it has adopted guidelines that the SMAQMD must consider when evaluating and funding Carl Moyer projects. The AB1390 and CARB requirements include funding a minimum of 50% of total projects in areas that are disproportionately impacted by regional or localized air pollution and either classified as low-income or communities of color.

## 2.0 AB 1390 REQUIREMENTS

AB 1390 added Section 43023.5 to the California Health and Safety Code. That section mandates that not less than 50% of the total Carl Moyer funds allocated to air districts with a population in excess of 1 million residents be used in a manner that directly benefits low-income areas or communities of color that are disproportionately impacted by exposure to regional or localized air contaminants. These standards may also be applied to additional state programs in the future. See Appendix A for the text of AB1390.

Neither AB 1390 nor the CARB Guidelines define low-income or communities of color, nor do they address the standards for identifying communities that are disproportionately impacted by either regional or localized pollution. Instead, CARB is directing individual air districts to develop their own specific standards based on local conditions. In sum, under AB 1390 and the CARB Guidelines, SMAQMD must:

- Continue to apply existing Carl Moyer program standards including geographic and cost effectiveness restrictions.
- Create standards for designating qualifying areas in the SFNA under AB1390.
- Allocate 50% of the Carl Moyer program funds to projects that will benefit areas designated under AB1390.

<sup>1</sup> The 2002 California Almanac of Emissions and Air Quality, 2002: California Air Resources Board

### **3.0 SUMMARY OF AB 1390 GUIDELINES IN OTHER AIR DISTRICTS**

#### **3.1 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD)**

The SCAQMD uses evaluation criteria based on Poverty Level, PM Exposure, and Toxic Exposure. They define their poverty guidelines as census tracts in which at least 10% of the population falls below the Federal Poverty Level. Disproportional impact is defined by areas with the highest 15% of PM concentration on an annual level, and areas with a cancer risk of 1,000 in a million based on their MATES II estimates. 50% of their FY 2001-02 Carl Moyer funds must be spent in these areas to satisfy AB 1390 (Firebaugh) requirements.

#### **3.2 SAN DIEGO AIR POLLUTION CONTROL DISTRICT (SDAPCD)**

The SDAPCD uses evaluation criteria based on household income statistics and ambient air quality data for ozone and PM. They define low income areas as census tracts in which the average household income is 80% or less of the county median household income. Disproportional impact was determined by using data from monitoring stations to interpolate pollution levels for the entire region; areas with pollution levels higher than the District average qualify. At least 50% of their FY 2001-02 Carl Moyer funds must be spent in these areas to satisfy AB 1390 requirements.

#### **3.3 BAY AREA AIR QUALITY MANAGEMENT DISTRICT (BAAQMD)**

The BAAQMD uses evaluation criteria based on analysis of 1 km blocks using PM exposure data and populations of children and the elderly. They have chosen not to designate areas as low income or communities of color, but rather focus on identifying grid areas impacted by PM from mobile and stationary sources. Using their monitoring data from major industry and trucking data, they established areas that had the most significant exposure to PM concentrations that also contained high levels of children and the elderly.

BAAQMD also believes that most low income areas or communities of color are located within close proximity to major stationary sources or transit corridors. Using this criteria, BAAQMD has been able to qualify over 50% of their FY 2001-02 Carl Moyer funds under AB 1390 requirements.

### **4.0 SUMMARY OF PROPOSED CARL MOYER PROGRAM AB 1390 GUIDELINES**

#### **4.1 DEFINITIONS**

##### **4.1.1 CENSUS TRACTS**

Geographic areas that correspond to the smallest census tract used in the census prepared by the U.S. Census Bureau.

##### **4.1.2 COMMUNITIES OF COLOR**

Communities of color are census tracts in which 50% or more of the population is non-white. See Appendix B for a regional map of communities of color.

##### **4.1.3 LOW-INCOME COMMUNITIES**

Low-income communities are census tracts in which 10% or more of the population lives at or below the Federal Poverty Level. Tying the definition of low-income community to the federal standard allows for automatic adjustments due to inflation. See Appendix C for a regional map of low income areas.

##### **4.1.4 QUALIFYING AREAS**

A qualifying area is a census tract in the SFNA that meets the definition of a low-income community or a community of color, or an area within 1,000 feet of a qualifying area.

#### **4.2 GUIDELINES**

Various agencies and organizations have prepared studies and reports demonstrating that low-income communities and communities of color generally suffer a disproportionately high level of impact from air pollution. Because

ozone is a regional pollution problem and high ozone levels may occur many miles downwind from the pollution source, the SMAQMD assumes under AB1390 that all low-income communities and communities of color suffer a disproportionate impact. Consequently, the SMAQMD will direct 50% of the Carl Moyer funds to projects that impact qualifying areas. Projects will be deemed to impact qualifying areas if:

- The project is eligible for Carl Moyer funding<sup>2</sup>, and
- The applicant will operate the project equipment at least 20% of its total operating hours in the SFNA within one or more of the following areas:
  - A qualifying area; or
  - An area within 1,000 ft of a qualifying area; or
  - An area determined by separate analysis to impact the air quality of a qualifying area.

These proposed additions to the Carl Moyer program are comparable to those adopted by other affected districts (SCAQMD, SDAPCD & BAAQMD) and will ensure compliance with new legal and regulatory requirements from adoption of AB 1390.

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<sup>2</sup> The specific requirements of the Carl Moyer Program (which is a portion of the Heavy-Duty Low Emission Vehicle Incentive Program) can be found at our website: [www.airquality.org](http://www.airquality.org). Vehicles and equipment funded under this program must operate a significant number of mile or hours within the SFNA.

## **APPENDIX A – TEXT OF AB 1390 (FIREBAUGH)**

### **THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** (a) The Legislature finds and declares both of the following: (1) Air pollution is a serious and persistent problem for the health and welfare of the citizens of the state, and it poses a threat to our natural environment. (2) Certain areas of the state suffer from greater exposure to poor air quality, particularly pollutants emitted by motor vehicles.

(b) It is the intent of the Legislature to do all of the following: (1) Focus existing state air quality programs more directly on those geographic areas that suffer from the greatest exposure to poor air quality. (2) Structure future state air quality programs in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state. (3) Include, in any future appropriations intended to provide incentives for the purchase of zero emission vehicles by a member of the public or by a public agency, a concurrent appropriation for air quality emission reduction programs that are designed to benefit communities with significant air quality problems.

**SECTION. 2.** Section 43023.5 is added to the Health and Safety Code, to read:

43023.5. (a) Notwithstanding the requirements established by Provision 3 of Item 3900-001-0044 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001) requiring all districts to distribute one-half of the funds subject to that provision in a manner that directly benefits low-income communities and communities of color that are disproportionately impacted by air pollution, only districts with a population of one million residents or greater, in consultation with the state board, shall ensure that not less than 50 percent of the funds subject to that provision and any other funds appropriated for purposes of the programs specified in paragraphs (1) to (3), inclusive, are expended in a manner that directly reduces air contaminants or reduces the public health risks associated with air contaminants in those districts, including, but not limited to, airborne toxics and particulate matter, in communities with the most significant exposure to air contaminants or localized air contaminants, or both, including, but not limited to, communities of minority populations or low-income populations, or both: (1) The Carl Moyer Air Quality Standards Attainment Program (Chapter 9 (commencing with Section 44275) of Part 5 of Division 26 of the Health and Safety Code). (2) Programs for the purchase of reduced-emissions schoolbuses. (3) Diesel mitigation programs.

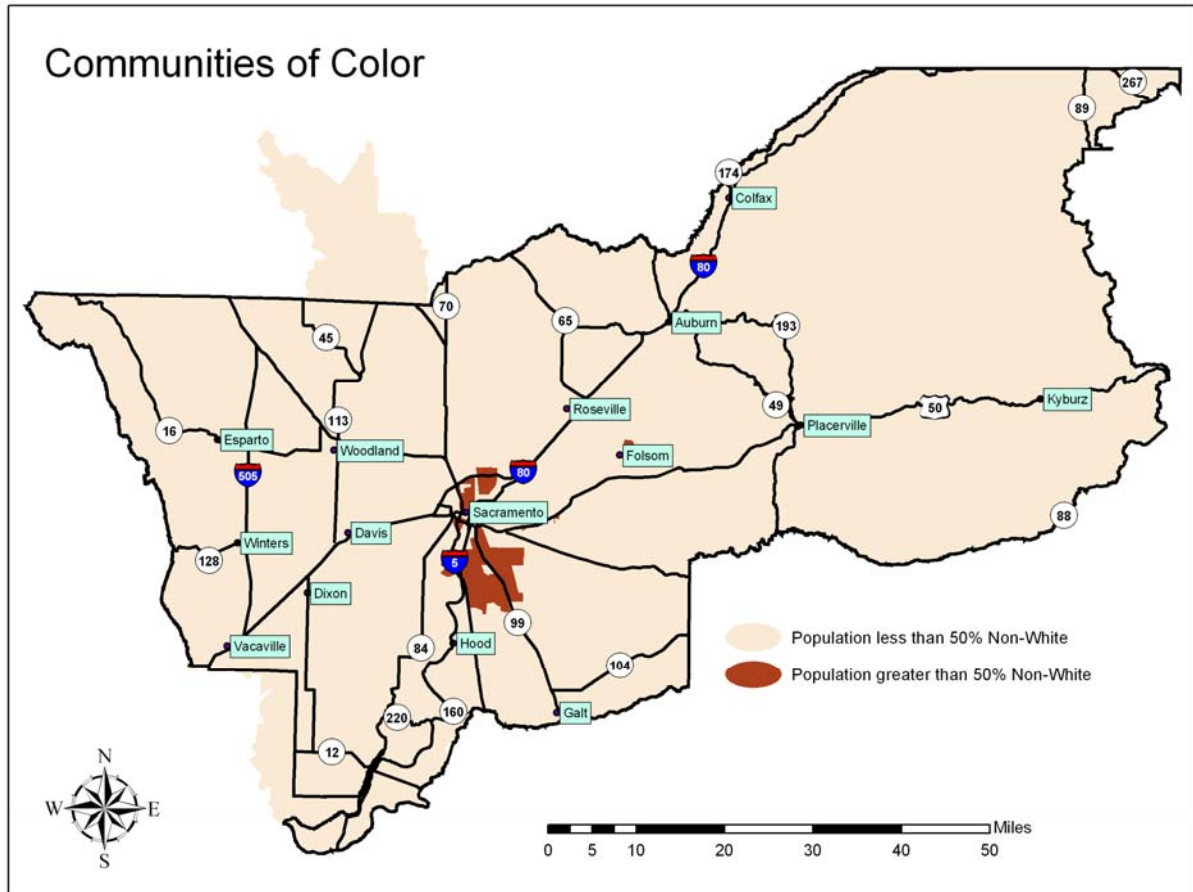
(b) Notwithstanding the requirements established by Provision 3 of Item 3900-001-0044 of the Budget Act of 2001 (Chapter 106 of the Statutes of 2001) requiring all districts to distribute one-half of the funds subject to that provision in a manner that directly benefits low-income communities and communities of color that are disproportionately impacted by air pollution, a district with less than one million residents is encouraged to expend funds available to the district for the purposes specified in subdivision (a) in a manner similar to that set forth in subdivision (a), to the extent that district determines that this is feasible. (c) This section shall remain in effect until January 1, 2007, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends that date.

**SECTION. 3.** Section 44260 of the Health and Safety Code is amended to read:

44260. The state board, in conjunction with the State Energy Resources Conservation and Development Commission, shall develop and administer a program to provide grants to individuals, local governments, public agencies, nonprofit organizations, and private businesses, to encourage the purchase or lease of a new zero-emission vehicle. The state board may reserve, allocate, and reallocate funds to any of those potential grant recipients. The state board shall periodically review grant applications and the award of grants to ensure, to the greatest extent possible, that all grant funds are used. The state board may reduce or eliminate grants awarded pursuant to this chapter if the state board determines that the recipient received a grant for the purchase or lease of a zero-emission vehicle in the Budget Act of 2001.

**SECTION. 4.** Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

## APPENDIX B – COMMUNITIES OF COLOR REGIONAL MAP



### Low Income Areas

Population less than 10% below Poverty Level

Population greater than 10% below Poverty Level